

TYREE RHINEHARDT,

Plaintiff,

vs.

D.F. MOORE, et al.,

Defendants.

at an apartment in Hickory, it appeared that he may have actually been incarcerated at CCDC. He was again cautioned that “he is required to keep the Court apprised of his correct address at all times” and that “the failure to do so may result in this action’s dismissal.” [Id. at fn. 1, 2]. The Court instructed the Clerk to mail the Plaintiff copies of the Order at his address of record in Hickory and to him at the CCDC. [Id.].

On November 18, 2024, the mail to Plaintiff at CCDC was returned as undeliverable and, on November 20, 2024, the Court re-mailed it with a corrected address. [See Doc. 18]. On December 13, 2024, the Clerk mailed a copy of the November 5 Order to the Plaintiff at the Foothills Correctional Institution because it appeared from the North Carolina Department of Adult Corrections’ (“NCDAC”) website that the Plaintiff was incarcerated there at that time.² The Plaintiff was ordered to update his address with the Court within 14 days; he was cautioned that the failure to do so may result in the dismissal of this action without prejudice. [Dec. 13, 2024 Notice].

The Plaintiff has not amended his Complaint or updated his address with the Court and the time to do so has expired. It appears that he has abandoned this action and the Court is unable to proceed. Accordingly, this action is dismissed without prejudice. See Fed. R. Civ. P. 41(b) (“If the plaintiff fails to prosecute or to comply with these rules or a court order, a defendant may move to dismiss the action or any claim against it.”); Link v. Wabash R.R. Co., 370 U.S. 626, 630-33 (1962) (although Rule 41(b) does not expressly provide for sua sponte dismissal, Rule 41(b) does not imply any such restriction and a court has the inherent power to dismiss a case for lack of prosecution or violation of a court order).


² The NCDAC’s website now reflects that the Plaintiff is incarcerated at the Johnson CI. See <https://webapps.doc.state.nc.us/opi/viewoffender.do?method=view&offenderID=1351174&searchLastName=rhinehardt&searchFirstName=tyree&searchDOBRange=0&listurl=pagelistoffendersearchresults&listpage=1> (last accessed Jan. 21, 2025); Fed. R. Ev. 201.

IT IS, THEREFORE, ORDERED that this action is **DISMISSED WITHOUT PREJUDICE**.

The Clerk is respectfully instructed to note that the Plaintiff's NCDAC inmate number is 1351174, and to mail him a copy of this Order at his address of record and to him at the Johnston Correctional Institution.

IT IS SO ORDERED.

Signed: January 23, 2025



Frank D. Whitney
Senior United States District Judge

